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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,265	08/28/2001	Noyes L. Avery	JJA-0008	5218

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EXAMINER

MEDLEY, MARGARET B

ART UNIT PAPER NUMBER

1714

DATE MAILED: 06/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/967,265

Applicant(s)

AVERY ET AL.

Examiner

Margaret B. Medley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This action is in response to Paper No. 7 dated March 11, 2003. The amendment to claims 1, 4 and 7 have been entered of record. The pending claims of record are claims 1-9.

The amendment to claim 7 has overcome the rejection of claim 7 under 35 USC section 112.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The newly added limitation to claims 1 and 4 that "the source of aromatics, a stream comprising a fluid cat cracker stream" containing the open-ended language "comprising" is broader than the originally filed claims and specification, particularly [0008] section of page 3 and [0011] section of page 4, directed to the source of aromatics "is selected from the group consisting of reformat, light fluid cat cracker

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streams or mixtures thereof, preferably reformat. Therefore, the examiner considers the newly added limitation "comprising" as being new matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation that the aromatic content source comprises a mixture of reformat and fluid cat cracker stream in a ratio of about 100:0 to 25:75 of claim 7, the ratio of about 100:0 to 75:25 of claim 8, and wherein the aromatic in the fuel are attributable to reformat of claim 9, appear to be in conflict with claims 1 and 4 (and their dependent claim) that the aromatic source is from a fluid cat cracker stream and therefore is indefinite and confusing.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 remain rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tsuboi 6,187,171B1 for reasons made of record in Paper No. 6 dated December 19, 2002. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art. ~~Claims 1-6 are~~ On 10/3/02, Claims 1-6 are considered under 35 U.S.C. 103(a) as being unpatentable over Applicants' Admission Orr WO 87/01384 in view of Russell et al (Russell) 5,518,511 and Malfer et al (Malfer) EP 0,647,700 A1 for reasons made of record in Paper No. 6 dated December 19, 2002.

Applicant's arguments filed March 11, 2003 have been fully considered but they are not persuasive.

Applicants argue that none of the prior art cited references teach the use of aromatics from a FCC stream wherein the amount of light FCC is from about 70% to 100% of the FCC stream.

The examiner disagrees with applicants' argument with respect to Tsuboi '171. The teachings of Patentees are directed to FCC naphtha, column 5, lines 46-50 and the example of Table 3 that indicate that Tsuboi contemplates, a light fluid cat cracker stream that rebuts the arguments made of record by applicants.

Orr '384 teaches that the aromatic hydrocarbons are the resultant product of the reformer, FCC Riser Cracker Unit or Coker Unit and the non-limiting examples contemplated include reformates, naphthas, e.g., page 21, lines 1-14. Orr teachings contemplate a light fluid cat cracker stream that rebuts the arguments of applicants. A careful study of the instant pending claims reveals that the claims are not limited to light FCC.

Applicants further argue that Orr focuses primarily on the effect of fuel composition on emissions rather than deposit formation. The examiner agrees with applicants' arguments that the fuel composition along with the MMT additive of Orr is focuses primarily on the effect of fuel compositions on emissions. However, the base fuel of Orr contemplate light fluid cat cracker stream fraction and rebut the rejection of record. Further a careful study of the instant claims reveals that the claims are not limited to light FCC.

The secondary references of Russell and Malfer are maintained for their teachings that the compositions of the gasoline have a direct effect for preventing or reducing deposit formation in the fuel injection system of spark ignition ICE including the inlet valves and injector system. The teachings of both references are set forth in Paper No. 6 at page 4 and the teachings are not repeated herein.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret B. Medley whose telephone number is 703-308-2518. The examiner can normally be reached on Monday-Friday from 7:30 am to 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

M. B. Medley/mn  
June 5, 2003

  
**MARGARET MEDLEY**  
**PRIMARY EXAMINER**